

1 LYSSA S. ANDERSON
 Nevada Bar No. 5781
 2 RYAN W. DANIELS
 Nevada Bar No. 13094
 3 KAEMPFER CROWELL
 1980 Festival Plaza Drive, Suite 650
 4 Las Vegas, Nevada 89135
 Telephone: (702) 792-7000
 5 Fax: (702) 796-7181
landerson@kcnvlaw.com
 6 rdaniels@kcnvlaw.com

7 **Attorneys for Defendants**
LAS VEGAS METROPOLITAN POLICE
 8 **DEPARTMENT, SHERIFF DOUGLAS**
GILLESPIE and OFFICER SCOTT NIELSON

9 UNITED STATES DISTRICT COURT
 10 DISTRICT OF NEVADA

11 HARVESTER HARRIS,
 12 Plaintiff,
 13 vs.

Case No. 2:15-cv-00337-GMN-PAL

**STIPULATION AND ORDER TO
 EXTEND DEADLINE TO SUBMIT
 JOINT PRE-TRIAL ORDER
 PURSUANT TO ECF NO. 102**

(First Request)

14 CITY OF HENDERSON; a political
 subdivision of the State of Nevada; LAS
 15 VEGAS METROPOLITAN POLICE
 DEPARTMENT, a political subdivision of the
 16 State of Nevada; SHERIFF DOUG
 GILLESPIE, individually; CHIEF PATRICK
 17 MOERS, individually; OFFICER SCOTT
 NIELSON, P#4408, individually;
 18 DETECTIVE PERDUE, individually; DOE
 OFFICERS III-X; and JOHN DOES I-X,
 19 inclusive,
 20 Defendants.

21
 22 The above-referenced parties, by and through their counsel of record, hereby request that
 23 the current deadline for the parties to submit a Joint Pre-Trial Order, January 16, 2018, pursuant
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KAEMPFER CROWELL
 1980 Festival Plaza Drive
 Suite 250
 Las Vegas, Nevada 89113

1 to ECF No. 102, be extended and/or stay pending a ruling on Defendants' pending Motion for
2 Reconsideration. [ECF No. 103].

3 **1. PROCEDURAL HISTORY.**

4 **A. The Motions to Dismiss.**

5 Plaintiff filed his original Complaint in this action on February 15, 2015, naming the City of
6 Henderson, Las Vegas Metropolitan Police Department ("LVMPD"), Sheriff Doug Gillespie and Chief
7 Patrick Moers. [ECF No. 1]. The City of Henderson and Chief Moers filed a Motion to Dismiss. [ECF
8 No. 12]. Similarly, LVMPD and Sheriff Gillespie also filed a Motion to Dismiss. [ECF No. 13]. In
9 responding to the Motions to Dismiss, Plaintiff sought leave to amend his Complaint. As such, the Court
10 denied the Motions to Dismiss and granted Plaintiff leave to amend his Complaint. [ECF No. 26].

11 The First Amended Complaint ("FAC") was filed and also named Officer Scott Nielson and
12 Detective Purdue. [ECF No. 28]. LVMPD and Sheriff Gillespie again filed a Motion to Dismiss the
13 FAC. [ECF No. 31]. The City of Henderson, Chief Moers and Detective Purdue also filed a Motion to
14 Dismiss. [ECF No. 39]. Officer Nielson filed an Answer. [ECF No. 37]. This Court granted LVMPD
15 and Sheriff's Gillespie's Motion to Dismiss, in part. [ECF No. 44]. All claims against Sheriff Gillespie
16 were dismissed and certain claims against LVMPD were dismissed. The Court then granted City of
17 Henderson, Chief Moers and Detective Purdue's Motion to Dismiss and gave Plaintiff leave to file a
18 Second Amended Complaint ("SAC"). [ECF No. 50].

19 Plaintiff filed the SAC on July 5, 2016. [ECF No. 53]. LVMPD and Sheriff Gillespie again filed
20 a Motion to Dismiss the SAC; or portions thereof. [ECF No. 55]. LVMPD and Officer Nielson also filed
21 an Answer. [ECF No. 54]. Likewise, again, the City of Henderson, Chief Moers and Detective Purdue
22 filed a Motion to Dismiss. [ECF No. 56].

23 **B. Discovery.**

24 The initial Scheduling Order was entered in this matter on June 24, 2015. [ECF No. 23]. The
parties engaged in and conducted extensive discovery – all during the pendency of the various Motions to
Dismiss. They exchanged written discovery, provided numerous Rule 26 Disclosures, served multiple

1 third-party subpoenas and took several depositions. The parties sought an extension of the discovery
2 deadlines on four (4) different occasions, ECF Nos. 32, 42, 47 and 51. The final Scheduling Order, ECF
3 No. 52, provided a close of discovery deadline of October 3, 2016 and a dispositive motion deadline of
4 November 2, 2016.

5 **C. After Discovery Closed.**

6 At the close of discovery, as the dispositive motion deadline was approaching, the Court had not
7 yet ruled on the pending Motions to Dismiss, ECF Nos. 55 and 56. The parties sought a thirty (30) day
8 extension of the dispositive motion deadline and presented in their Stipulation that the Motions were fully
9 briefed and pending. [ECF No. 64]. On December 1, 2016, the City of Henderson, Chief Moers and
10 Detective Purdue filed their Motion for Summary Judgment. [ECF No. 66]. Likewise, on December 2,
11 2016, LVMPD and Officer Nielson each also filed Motions for Summary Judgment. [ECF Nos. 67 and
12 68]. On January 23, 2017, Plaintiff filed oppositions to the Motions for Summary Judgment. [ECF Nos.
13 74 and 75].

14 Four (4) days later, the Court entered its order on the pending Motions to Dismiss the SAC.
15 [ECF No. 78]. The Court granted the Motion to Dismiss against City of Henderson, Chief Moers and
16 Detective Purdue in its entirety and granted the Motion to Dismiss Sheriff Gillespie and the state law
17 claims against LVMPD. The Court gave Plaintiff leave to file a Third Amended Complaint (“TAC”) to
18 reassert his claims against Detective Perdue.

19 On February 17, 2017, Plaintiff filed his TAC, only naming LVMPD, Officer Nielson, City of
20 Henderson and Detective Purdue. [ECF No. 82]. LVMPD and Officer Nielson filed an Answer to the
21 TAC, [ECF No. 84], and City of Henderson and Detective Purdue filed a Motion to Dismiss, [ECF No.
22 85]. At this time, the dispositive motions filed by City of Henderson, LVMPD and Officer Nielson were
23 fully briefed and pending.

24 On April 5, 2017, the Court issued a Minute Order granting City of Henderson and Detective
Purdue’s Motion to Dismiss and denying all pending Motions for Summary Judgment, [ECF Nos. 66, 67
ad 68], as moot. LVMPD and Officer Neilson’s Motions for Summary Judgment were never decided by

1 the Court. As the Court is aware, shortly thereafter, Plaintiff's then Counsel, Cal Potter became
2 extremely ill and filed a Motion to Withdraw which was granted. [ECF Nos. 89 and 90].

3 On October 10, 2017 the Court issued a formal written Order granting City of Henderson and
4 Detective Purdue's Motion to Dismiss. [ECF No. 92]. The Order then directed LVMPD and Officer
5 Nielson to file a Joint Pre-Trial Order by December 4, 2017. LVMPD and Officer Nielson filed a Motion
6 for Reconsideration; asking the Court to reconsider the requirement that the parties file a Joint Pre-Trial
7 Order and allow the parties to file their dispositive motions and the Court to decide them. [ECF No. 93].
8 Plaintiff filed a Motion for Settlement Conference and a request for additional time to secure Counsel¹.
9 [ECF No. 95]. Plaintiff filed a response to the Motion for Reconsideration, agreeing that the dispositive
10 motions could be ruled on by the Court. [ECF No. 98].

11 On November 15, 2017 Judge Leen granted Plaintiff additional time to retain Counsel, until
12 December 22, 2017; but denied Plaintiff's request for a settlement conference; acknowledging LVMPD
13 and Officer Nielson's pending Motion for Reconsideration. [ECF No. 101]. On December 6, 2017,
14 Judge Navarro issued a Minute Order re-setting the deadline for the parties to submit a Pre-Trial Order to
15 January 16, 2018. [ECF No. 102]. The Minute Order, however, did not acknowledge the pending Motion
16 for Reconsideration. In an abundance of caution, LVMPD and Officer Nielson again filed a Motion for
17 Reconsideration; requesting the Court reconsider the previously fully briefed dispositive motions. [ECF
18 No. 103]. Plaintiff filed a response, [ECF No. 104], and the Motion is fully briefed and pending.

19 **2. ACTION REQUIRED TO BE TAKEN BY THE COURT:**

20 The parties' instant request is that the current deadline for the parties to submit a Joint Pre-Trial
21 Order of January 16, 2018 be extended and/or vacated at this time. The parties ask that the Court rule on
22 the pending Motion for Reconsideration [ECF No. 103], before requiring the parties submit a Joint Pre-
23 Trial Order. Moreover, Plaintiff still has not located or associated an experienced § 1983 attorney.

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¹ Although Plaintiff is also represented by attorney Jay Kenyon, in Plaintiff's request, Mr. Kenyon represents to the Court that he is not an experienced § 1983 attorney and he is attempting to locate an attorney with said experience to represent Plaintiff.

1 As such, the parties request the instant deadline be stayed/vacated in the best interests of the
2 parties and this Court.

3 DATED this 16th day of January, 2018.

4 KAEMPFER CROWELL

YAN KENSON

5 By: /s/ Lyssa S. Anderson
6 LYSSA S. ANDERSON
7 Nevada Bar No. 5781
1980 Festival Plaza Drive, #650
Las Vegas, Nevada 89135
Attorneys for Defendants

By: /s/ Jay A. Kenyon
Jay A. Kenyon, Esq.
Nevada Bar No. 6376
7881 West Charleston Blvd., #165
Las Vegas, NV 89117
Attorney for Plaintiff

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9
10 **ORDER**

11 **IT IS HEREBY ORDERED** that the remaining Defendants' Objections, (ECF No. 93), and
12 Motion for Reconsideration, (ECF No. 103), are **GRANTED**. The parties are given leave to
refile their summary judgment motions a week after the issuance of this Order.

13 **IT IS FURTHER ORDERED** that the parties' stipulation, (ECF No. 106), is **GRANTED**. The
14 parties shall file their joint pretrial order two weeks after the issuance of this Order.

15 DATED this 19 day of January, 2018.

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19 Gloria M. Navarro, Chief Judge
20 UNITED STATES DISTRICT COURT JUDGE
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